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PATENT  
PATENT APP. SER. NO. 10/046,404  
ECLIPSE GROUP DOCKET NO. H103027USU (P02017US)IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
THE BOARD OF PATENT APPEALS AND INTERFERENCES  
APPEAL NO. 2009-003277

DOCKET NO.: H103027USU (P02017US)  
APPLICANT(S): Bernard M. Werner  
TITLE: CONSTANT COVERAGE WAVEGUIDE  
SERIAL NO.: 10/046,404  
FILING DATE: January 14, 2002  
EXAMINER: Dabney, Phylesha L.  
GROUP ART UNIT: 2614  
CONFIRMATION NO.: 2074

CERTIFICATE OF TRANSMISSION  
I certify that on 10/20/09  
the attached correspondence is being transmitted via  
facsimile to the Commissioner for Patents at (571)  
273-8300.  
  
Diane Gilden

Board of Patent Appeals and Interferences  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

**RESPONSE TO DECISION ON APPEAL DATED AUGUST 20, 2009**

Dear Commissioner:

This is responsive to the Decision of the Board of Patent Appeals and Interferences ("Board") dated August 20, 2009, in which the Board rejected the pending claims based on a new ground not on appeal pursuant to 37 C.F.R. § 41.50(b). Applicants have amended the claims and hereby request reconsideration by the Examiner pursuant to 37 C.F.R. § 41.50(b)(1). This response is due within two-months of the decision. This response is therefore timely filed.

Favorable consideration is respectfully requested in view of the following amendments and remarks.